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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

JOHN MAFUA MAMEA,

Defendant and Appellant.

F072480

(Super. Ct. No. CF95545799)

OPINION

THE COURT*

APPEAL from an order of the Superior Court of Fresno County. F. Brian Alvarez, Judge.

Elaine Forrester, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Levy, Acting P.J., Gomes, J. and Poochigian, J.

Appointed counsel for defendant John Mafua Mamea asked this court to review the record to determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Counsel filed an opening brief that sets forth the facts of the case. Defendant was advised of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant. Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the order.

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 124.)

On August 21, 2015, acting in propria persona, defendant filed a motion for modification of his sentence, requesting reduction of a \$10,000 restitution fine, imposed by the trial court some 19 years earlier, to \$200. He asserted there was insufficient evidence of his ability to pay the \$10,000 fine. He attached a copy of an abstract of judgment filed on May 7, 1996, showing a sentence of 52 years to life and a restitution fine of \$10,000 pursuant to Penal Code section 1202.4,¹ to be paid at \$200 per year.

On September 3, 2015, the trial court denied defendant's motion to reduce the restitution fine, stating:

“This Court no longer has jurisdiction to entertain defendant's motion as the time to appeal has lapsed, or the conviction has been affirmed on direct appeal, and the conviction and judgment are final. [Citations.] [¶] Any further motions filed by defendant, seeking the same relief, will be disregarded by this Court, absent a change of law conferring jurisdiction on this Court to entertain such a successive motion.”

On October 6, 2015, defendant filed a notice of appeal.

DISCUSSION

“ ‘[G]enerally a trial court lacks jurisdiction to resentence a criminal defendant after execution of sentence has begun. [Citation.]’ (*People v. Howard* (1997) 16 Cal.4th

¹ All statutory references are to the Penal Code.

1081, 1089; see *People v. Karaman* (1992) 4 Cal.4th 335, 344, 347, 350, 352 [court retains power to modify a sentence ‘at any time prior to execution of the sentence’]; *Dix v. Superior Court* (1991) 53 Cal.3d 442, 455); *Portillo v. Superior Court* (1992) 10 Cal.App.4th 1829, 1834-1835.)” (*People v. Turrin* (2009) 176 Cal.App.4th 1200, 1204.) “A defendant may not contest the amount, specificity, or propriety of an authorized order of a restitution fine for the first time on appeal [citations] let alone in a motion to modify the same in the trial court after it has lost jurisdiction. Defendant is contesting the amount and propriety of an authorized order of a restitution fine. Section 1202.4, subdivision (b), authorized the amounts imposed here. And defendant’s motion raised a factual question about his ability to pay, not a pure question of law. The unauthorized-sentence exception to loss of jurisdiction does not apply here.” (*Id.* at p. 1207.)

Similarly, in this case, the trial court properly concluded it had lost jurisdiction and was required to deny defendant’s motion. Furthermore, we see no other arguable error that would result in a disposition more favorable to defendant.

DISPOSITION

The trial court’s order denying defendant’s motion for modification of his sentence is affirmed.